

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: <u>June 7</u> , 2011

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IVAN FONTANEZ

Plaintiff,

- against -

DORA SCHRIRO, Commissioner, *et al.*,

Defendants.

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09 Civ. 9921 (PAC) (FM)

ORDER ADOPTING R&R

HONORABLE PAUL A. CROTTY, United States District Judge:

On December 3, 2009 *pro se* Plaintiff Ivan Fontanez ("Plaintiff") filed a complaint alleging that he was improperly strip searched while an inmate at Riker's Island. On August 25, 2010 Magistrate Judge Frank Maas issued a Report and Recommendation ("R&R"), recommending that Plaintiff's complaint be dismissed without prejudice. Having reviewed Magistrate Judge Maas' R&R, the Court adopts the Report and Recommendation in its entirety. Accordingly, Plaintiff's complaint is dismissed without prejudice.

DISCUSSION

In reviewing a Report and Recommendation, a Court "may accept, reject, or modify, in whole or in part the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). "To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985) (citations omitted).

In this case, Plaintiff's Rule 4 service package was returned to the court as undeliverable and subsequent efforts to locate Plaintiff were unsuccessful. (R&R 1.) Since Plaintiff has failed to provide


the court with his current address, Magistrate Judge Maas recommended that this case be dismissed without prejudice. (Id.)

CONCLUSION

Finding no clear error in Magistrate Judge Maas' analysis, the Court adopts Magistrate Judge Maas' R&R in its entirety. Plaintiff's complaint is, therefore, dismissed without prejudice. The Clerk of Court is directed to enter judgment and close this case. Pursuant to 28 U.S.C § 1915(a), I find that any appeal from this order would not be taken in good faith.

Dated: New York, New York
June 7, 2011

SO ORDERED



PAUL A. CROTTY
United States District Judge

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